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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,111	10/14/2003	Lanny R. Smith	40059-0007	6786
7590	01/26/2005			EXAMINER KIM, SANG K
Kulaniakea Fisher Rader, Fishman & Grauer PLLC 10653 S. River Front Pkwy., Ste. 150 South Jordan, UT 84095			ART UNIT 3654	PAPER NUMBER

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	10/686,111	Applicant(s)	SMITH, LANNY R.
Examiner		Art Unit	
	SANG KIM	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-35 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,7-9,11-13,21-23,27,28,30-32 and 35 is/are rejected.
- 7) Claim(s) 4-6,10,14-20,24-26,29, 33 and 34 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 October 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \*    c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

***Drawings***

Figures 1A-B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: What structural elements are "the reel element, roll-up element, transformable member" being referred to by the applicant?

***Claim Objections***

Claims 13-20 are objected to because of the following informalities:

In claim 13, sections (d) and (e), "a first rotational direction" should be --the first rotational direction—and "a second rotational direction" should be --the second rotational direction--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-20 and 27-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "the rope" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 27 recites the limitation "the shift member" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 30 recites the limitation "the shift element" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7-9, 13, 21-23, 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Ragsdale et al., U.S. Patent No. 5524302.

With respect to claims 1-2, 21-22 and 27-28, Ragsdale '302 shows a swimming pool cover motor (16) having a rotatable drive shaft (18) and a rope (13) attached to the end of the swimming pool cover, see figure 2:

A reel (26) mounted to rotate about the rotatable drive shaft (18);

A roll-up element (12) to rotate about the rotatable drive shaft (18);

A gear drive assembly (i.e. motorized drive assembly) driven by the rotatable drive shaft (18), and adapted for driving the reel (26) in a first rotational direction as the drive shaft rotates in a first direction (C), and the roll-up element able to rotate in a second direction as the drive shaft rotates in a second direction (A); and

A shift assembly (30) associated with the gear drive assembly to selectively reverse the first rotational direction of the reel and to selectively reverse the second rotational direction of the roll-up element, see figure 4.

With respect to claims 3 and 23, Ragsdale '302 shows a dog gear (30, i.e. a pivot member) adapted to engage the reel (26) and the roll-up element (12), see figure 4.

With respect to claim 7, Ragsdale '302 shows the shift assembly (30) comprises a shear pin (31, i.e. a transformable member) associated with the gear assembly (i.e. motorized drive assembly) to transform the gear assembly to drive the roll-up element (12) as the rotatable drive shaft (18) rotates in the first direction, and to transform the gear assembly to drive the reel element as the rotatable drive shaft rotates in the second direction, see figure 4.

With respect to claims 8-9, Ragsdale '302 shows the shear pin (31, i.e. transformable member) is adapted to be removable attached to the rotatable drive

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shaft (18) in a first position and a second position (i.e. by attaching to 28 or 32), see figure 4.

With respect to claim 13, Ragsdale '302 shows a rotatable motor shaft (18); A reel (26) mounted to a drive shaft assembly (11) and able to rotate the shaft in a first rotational direction (A); A roll-up element (12) mounted to the drive shaft assembly and able to rotate the shaft in a second rotational direction (C); A gear assembly (i.e. motorized drive assembly) driven by the drive shaft (18), including a shear pin (31, i.e. a pivot member) adapted to engage and drive the reel (26) as the drive shaft (18) moves in the first rotational direction, and adapted to engage and drive the roll-up element (12) as the drive shaft moves in the second rotational direction; and a shift assembly (30) associated with the gear assembly adapted to selectively change the orientation of the shear pin (31, i.e. a pivot member) to engage the drive the roll-up element as the drive shaft moves in the first rotational direction, and to engage the drive the reel (26) as the drive shaft moves in the second rotational direction, see figure 4.

With respect to claims 21-23 and 27-28, the method described in these claims would inherently result from the use of invention of Ragsdale '302 as advanced above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 11-12 and 30 rejected under 35 U.S.C. 103(a) as being unpatentable over Ragsdale et al., U.S. Patent No. 5524302, in view of Lof et al., U.S. Patent No. 5184356.

Ragsdale '302 discloses the claimed invention except for a torque limiter.

Lof '356 shows a torque limiter (90).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Ragsdale '302 by adding a torque limiter as taught by Lof '356, to prevent damage to the apparatus from over torque when winding.

Claims 21-22, 31-32 and 35 rejected under 35 U.S.C. 103(a) as being unpatentable over Lof et al., U.S. Patent No. 5184356.

With respect to claims 21-22, 31-32 and 35, Lof '356 shows a swimming pool cover motor (80) having rotatable drive shafts (76, 126, 84) and a rope (46) attached to the end of the swimming pool cover, see figure 2:

A reel (120) for collecting the rope (46), and mounted to rotate about the rotatable drive shaft (126);

A roll-up element (70) for collecting the swimming pool cover (30), and mounted to rotate about the rotatable drive shaft (76);

A gear drive assembly (80) driven by the rotatable drive shaft (84), and the reel (120) able to rotate in a first rotational direction as the drive shaft rotates in a first direction (winding and unwinding), and the roll-up element (70) able to rotate in a

second direction as the drive shaft rotates in a second direction (winding and unwinding); and

a torque limiter (90) mounted on the rotatable shaft (84) and associated with the gear assembly (80), see figure 3.

Lof '356 discloses the claimed invention except for using only one drive shaft to drive the reel and the roll-up element. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Lof '356 by reducing three shafts into one shaft in order to save material cost.

With respect to claims 21-22, the method described in these claims would inherently result from the use of invention of Lof '356 as advanced above.

#### ***Allowable Subject Matter***

Claims 4-6, 10, 14-20, 24-26, 29 and 33-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4-6, 10, 14-20, 24-26, 29 and 33-34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SANG KIM whose telephone number is 703-305-3712. The examiner can normally be reached Monday through Friday from 8:00 A.M. to 5:30 P.M. alternating Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki, can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SK

1/14/05



KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600